

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 24-157 (MAJ)

[1] WILLIAM TORRES-RODRIGUEZ,  
T/N MARTIRES TORRES-GARCIA,

Defendant.

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**  
**RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING**

**I. Procedural Background:**

On May 1, 2024, defendant William Torres-Rodriguez, whose true name is Martires Torres-Garcia, was charged in a one-count indictment with re-entry of a removed alien. (Docket No. 15). He agreed to plead guilty to the sole count in the indictment pursuant to a straight plea.

Count One specifically charges that on or about April 22, 2024, in the district of Puerto Rico and within the jurisdiction of this Court, Mr. Torres-Rodriguez, who is an alien, as that term is defined in Title 8, United States Code, Section 1101(a)(3), and who has been previously removed from the United States subsequent to an aggravated felony conviction, attempted to enter the United States, without obtaining, prior to his re-embarkation at a place outside of the United States, the express consent of the Secretary

1 of the Department of Homeland Security to reapply for admission into the United States.  
2 All in violation of Title 8, *United States Code*, Sections 1326(a) and (b)(2).

3 Defendant appeared before me, assisted by the court interpreter, on September  
4 10, 2024, after the Rule 11 hearing was referred to me by the Presiding District Judge.  
5 *See United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had  
6 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was  
7 advised of the purpose of the hearing and placed under oath with instructions that his  
8 answers must be truthful lest he subject himself to possible charges of perjury or making  
9 a false statement.  
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12 **II. Consent to Proceed Before a Magistrate Judge:**

13 Defendant was provided with a Waiver of Right to Trial by Jury form, which he  
14 signed.<sup>1</sup> He was advised of his right to hold all proceedings, including the change of plea  
15 hearing, before a district court judge. He received an explanation of the differences  
16 between the scope of jurisdiction and functions of a district judge and a magistrate judge.  
17 He was informed that if he elected to proceed before me, a magistrate judge, that I would  
18 conduct the hearing and prepare a report and recommendation, subject to review and  
19 approval of the District Judge. The defendant then voluntarily consented to proceed  
20 before me.  
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25 <sup>1</sup> The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for  
26 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is  
27 made part of the record.  
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### III. Proceedings Under Rule 11 of the Federal Rules of Criminal Procedure:

Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty to constitute a valid waiver of the defendant's right to trial, the guilty plea must be knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999). "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an 'understanding of the nature of the charge and consequences of his plea.'" *United States v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S. 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244 (1st Cir. 1991)).

#### A. Competence to Enter a Guilty Plea

I questioned the defendant about his age, education, employment, history of any treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and his understanding of the purpose of the hearing, all in order to ascertain his capacity to understand, answer and comprehend the change of plea colloquy. I confirmed that the defendant received the indictment and fully discussed the charges with his attorney and was satisfied with the advice and representation he received. In addition, I further inquired whether defendant's counsel or counsel for the government had any doubt as to his competency to plead, receiving answers from both that the defendant was competent to enter a plea. After considering the defendant's responses, and observing his demeanor,

1 a finding was made that Mr. Torres-Rodriguez was competent to plead and fully aware  
2 of the purpose of the hearing.

3 **B. Maximum Penalties**

4 Upon questioning, the defendant expressed his understanding of the maximum  
5 penalties prescribed by statute for the offense to which he was pleading guilty, namely:  
6 a term of imprisonment of not be more than twenty (20) years, a fine not to exceed two  
7 hundred and fifty thousand dollars (\$250,000) and a supervised release term of not  
8 more than three (3) years in addition to any term of incarceration.  
9

10 The defendant also understood that a Special Monetary Assessment of \$100.00  
11 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United  
12 States Code, Section 3013(a). The court explained the nature of supervised release and  
13 the consequences of revocation. The defendant indicated that he understood the  
14 maximum penalties for Count One and the potential consequences of the guilty plea.  
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16 **C. Sentencing Procedure**

17 The defendant was specifically informed that the court, after considering the  
18 applicable Sentencing Guidelines, could impose a sentence different from any estimate  
19 provided by his attorney, and that the court had the authority to impose a sentence that  
20 is more severe or less severe than the sentence called for by the Sentencing Guidelines.  
21 The defendant was advised, and understood, that the Sentencing Guidelines are no  
22 longer mandatory and are thus considered advisory, and that during sentencing the court  
23 will consider the sentencing criteria found at Title 18, United States Code, Section  
24 3553(a).  
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**D. Waiver of Constitutional Rights**

Mr. Torres-Rodriguez was specifically advised that he has the right to persist in a plea of not guilty, and if he does so persist that he has the right to a speedy and public trial by jury, or trial before a judge sitting without a jury if the court and the government so agree; that at trial he would be presumed innocent and the government would have to prove his guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel for his defense, and if he could not afford an attorney the court would appoint one to represent him throughout all stages of the proceedings; that at trial he would have the right to hear and cross examine the government's witnesses, the right to decline to testify unless he voluntarily elected to do so, and the right to the issuance of subpoenas or compulsory process to compel the attendance of witnesses to testify. He was further informed that if he decided not to testify or put on evidence at trial, the failure to do so could not be used against him, and that at trial the jury must return a unanimous verdict before he could be found guilty or not guilty.

The defendant specifically acknowledged understanding these rights and understanding that by entering a plea of guilty there would be no trial and he will be waiving or giving up the rights I explained.

The defendant was informed that parole has been abolished and that any sentence of imprisonment must be served, and that his guilty plea may result in loss of important civil rights, such as the right to vote, to hold public office, to serve on a jury, and to possess a firearm. The defendant confirmed that he understood these consequences of the guilty plea.

1                   **E.      Factual Basis for the Guilty Plea**

2            Defendant was read in open court Count One of the indictment and provided an  
3 explanation of the elements of the offense. The meaning of terms used in the indictment  
4 was explained. Further, upon questioning, the defendant admitted to facts constituting  
5 all of the elements of the offense charged in Count One and the evidence the government  
6 had available to establish, in the event defendant elected to go to trial, the defendant's  
7 guilt beyond a reasonable doubt.  
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9                   **F.      Voluntariness**

10           The defendant indicated that he was not being forced to plead guilty but was  
11 entering such a plea freely and voluntarily because in fact he is guilty, and that no one  
12 had threatened him or offered a thing of value in exchange for his plea. He acknowledged  
13 that no one had made any different or other promises in exchange for his guilty plea.  
14 Throughout the hearing the defendant was able to consult with his attorney.  
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16                   **IV.      Conclusion:**

17           The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal  
18 Rules of Criminal Procedure, and entered a plea of guilty as to Count One of the  
19 indictment. After cautioning and examining the defendant under oath and in open court  
20 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,  
21 William Torres-Rodriguez whose true name is Martires Torres-Garcia is competent to  
22 enter this guilty plea, is aware of the nature of the offense charged and the maximum  
23 statutory penalties that it carries, understands that the charge is supported by evidence  
24 and a basis in fact, has admitted to the elements of the offense, and has done so in an  
25 intelligent and voluntary manner with full knowledge of the consequences of his guilty  
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1 plea. Therefore, I recommend that the court accept the guilty plea and that the defendant  
2 be adjudged guilty as to Count One of the indictment.

3 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and  
4 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific  
5 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and  
6 specific objections to the report and recommendation is a waiver of the right to appellate  
7 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,  
8 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d  
9 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.  
10 1987).

11 **IT IS SO RECOMMENDED.**

12 In San Juan, Puerto Rico this 10th day of September, 2024.

13 S/Héctor L. Ramos-Vega  
14 HÉCTOR L. RAMOS-VEGA  
15 UNITED STATES MAGISTRATE JUDGE  
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